

STATE OF WISCONSIN)
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DEPARTMENT OF PUBLIC INSTRUCTION)

I further certify that said copy has been compared by me with the original on file in this Department and the same is a true copy thereof, and of the whole of such original.

\\signed JTB/SD

John T. Benson
State Superintendent
State Department of Public Instruction

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AMENDING RULES**

The state superintendent of public instruction hereby amends PI 11.02(23)(b) and creates PI 11.02(23)(i) to (k) and PI 11.35(2)(L), relating to the definition of handicapping conditions, including significant developmental delay.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: s. 227.11(2)(a), Stats.

Statute interpreted: s. 115.76(3), Stats.

The proposed rules modify ch. PI 11 due to provisions included in 1995 Wisconsin Act 298 and Clearinghouse Rule 94-59.

Effective July 1, 1996, the Act added the handicapping condition of “significant developmental delay” to the list of categories under s. 115.76(3), Stats.

Effective May 1, 1995, Clearinghouse Rule 94-59 added the handicapping conditions of “autism”, “traumatic brain injury”, and “other health impairment” to the list of handicapping conditions criteria under s. PI 11.35. Also, the term “orthopedic impairment” was substituted for the term “physical handicapped.” When making these additions/modifications to the handicapping conditions eligibility criteria, the definition of handicapping condition under PI 11.02(23) was overlooked.

The proposed rules have been modified to define the handicapping condition of significant developmental delay and correlate the definitions of handicapping conditions under s. PI 11.02(23) with the handicapping conditions eligibility criteria created under Clearinghouse Rule 94-59. These rules were promulgated as emergency rules effective July 31, 1996.

SECTION 1. PI 11.02(23)(b) is amended to read:

PI 11.02(23)(b) ~~Physically handicapped~~ Orthopedic impairment as specified in s. PI 11.35.

SECTION 2. PI 11.02(23)(h) to (k) are created to read:

PI 11.02(23)(h) Significant developmental delay as specified in s. PI 11.35

(i) Autism as specified in s. PI 11.35.

(j) Traumatic brain injury as specified in s. PI 11.35.

(k) Other health impairment as specified in s. PI 11.35.

SECTION 3. PI 11.35 (2)(L) is created to read:

PI 11.35 (2)(L) Significant Developmental Delay. 1. Significant developmental delay means children, ages 3, 4 and 5 years of age or below compulsory school attendance age, who are experiencing significant delays in the areas of physical, cognition, communication, social-emotional or adaptive development.

2. All other suspected handicapping conditions, including cognitive disability, orthopedic impairment, visually handicapped, hearing handicapped, learning disability, speech and language handicapped, emotional disturbance, autism, traumatic brain injury, or other health impairment shall be considered before identifying a child's primary handicapping condition as significant developmental delay.

3. A child may be identified as having the handicapping condition of significant developmental delay when delays in development significantly challenge the child in two or more of the following five major life activities:

a. Physical activity in gross motor skills, such as the ability to move around and interact with the environment with appropriate coordination, balance and strength; or fine motor skills, such as manually controlling and manipulating objects such as toys, drawing utensils, and other useful objects in the environment.

b. Cognitive activity, such as the ability to acquire, use and retrieve information as demonstrated by the level of imitation, discrimination, representation, classification, sequencing, and problem-solving skills often observed in a child's play.

c. Communication activity in expressive language, such as the production of age-appropriate content, form and use of language; or receptive language, such as listening, receiving and understanding language.

d. Emotional activity such as the ability to feel and express emotions, and develop a positive sense of oneself; or social activity, such as interacting with people, developing friendships with peers, and sustaining bonds with family members and other significant adults.

e. Adaptive activity, such as caring for his or her own needs and acquiring independence in age-appropriate eating, toileting, dressing and hygiene tasks.

4. Documentation of significant developmental delays under subd. 3 and their detrimental effect upon the child's daily life shall be based upon qualitative and quantitative measures including all of the following:

a. A developmental and basic health history, including results from vision and hearing screenings and other pertinent information from parents and, if applicable, other caregivers or service providers.

b. Observation of the child in his or her daily living environment such as the child's home, with a parent or caregiver, or an early education or care setting which includes peers who are typically developing. If observation in these settings is not possible, observation in an alternative setting is permitted.

c. Results from norm-referenced instruments shall be used to document significant delays of at least one and one-half standard deviations below the mean in 2 or more of the developmental areas which correspond to the major life activities. If it is clearly not appropriate to use norm-referenced instruments, other instruments, such as criterion referenced measures, shall be used to document the significant delays.

The rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

Dated this _26th_ day of November, 1996

\\signed JTB/SD

John T. Benson
State Superintendent